

MEMO ENDORSED

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July 2, 2020

District Judge Nelson S. Román  
United States District Court  
Southern District of New York  
300 Quarropas Street  
White Plains, NY 10601

The application is ☒ granted.  
☐ denied.

Re: 7:20-cv-02979-NSR  
Bardsley v. Nonni's Foods LLC

Nelson S. Román, U.S.D.J.  
Dated: July 6, 2020  
White Plains, New York 10601  
Clerk of the Court requested to  
terminate the motion (doc. 6).

Dear District Judge Román:

This office represents the plaintiff. In accordance with your Honor's Individual Practices in Civil Cases, plaintiff requests an extension of the time to prove service or file a waiver of service. The original date by which service is required to be proved to the Court is Friday, July 10, 2020. Fed. R. Civ. P. 4(m) (allowing 90 days for defendant to be served); Fed. R. Civ. P. 6(a)(1)(A)-(B) (excluding the date triggering the period and counting intermediate weekends). Plaintiff requests an extension of 30 days, until Monday, August 10, 2020, to obtain and file an executed waiver so defendant may obtain additional time to move or answer in response to the complaint. Fed. R. Civ. P. 4(d)(4) ("Results of Filing a Waiver").

This action was filed on Saturday, April 11, 2020 and "a copy of the complaint, 2 copies of the waiver form appended to this Rule 4, and a prepaid means for returning the form" was sent to defendant's registered agent as indicated on the summons on Monday, April 20, 2020. After over a month had elapsed without a response, I contacted defendant's main office and spoke to a person named Lisa who was answering phones and told her why I was calling. I asked that someone with authority to speak on legal matters contact my office. I also requested an email address and I re-issued a waiver of service by email. I did not receive a response.

Earlier this week, I contacted defendant's main office again and spoke to another individual. I requested to speak with someone with authority and left my contact information. I was not told by this person whether to expect to be contacted by anyone in defendant's office.

Following this call, I arranged for service of process by "delivering a copy of the summons and of the complaint to an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process" to the registered agent in the formation state. Fed. R. Civ. P. 4(h)(1)(B) ("Serving a Corporation, Partnership, or Association."). Though I am in possession of an affidavit of service, plaintiff requests this extension to secure defendant's agreement to waive service, which will make it less necessary for defendant to hurriedly request an extension of time from the Court and plaintiff, conserve judicial resources and accommodate defendant and whomever it selects as its counsel. This request is submitted at least 48 hours prior to the date sought to be extended. No prior request was made for the relief sought herein. Thank you.

Respectfully submitted,

/s/Spencer Sheehan  
Spencer Sheehan

USDC SDNY  
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